THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT PETITION No.25340 of 2003

Date: 22.08.2007

Between:

Bay Fry Hatcheries

... PETITIONER

AND

The A.P.E.P.D.C. Ltd. and another.

... RESPONDENTS

ORDER:

The petitioner is a hatchery unit. It is extended the power supply through service connection No.268 of Srirampuram, Ramanakkapeta under L.T.III category. The premises were inspected on 26.06.2003. On noticing that the utilization of power for lighting purpose exceeded 5% of the contracted load, the Assistant Accounts Officer, second respondent herein, issued a letter, dated 06.10.2003, requiring the petitioner to pay a sum of Rs.1,26,943/- representing the highest slab rate for L.T. II category for the period from January, 1999 to July, 2003. The petitioner challenges the said proceedings.

It is urged that no show cause notice was issued before determining the amount towards short billing against the petitioner and that the demand is contrary to law.

On behalf of the respondents, a counter-affidavit is filed. It is stated that the utilization of power by the petitioner for the lighting purposes had exceeded the contract load and the levy was made as per the terms and conditions of supply.

Heard the learned counsel for the petitioner and the learned standing counsel for the respondents.

The basis for levying a sum of Rs.1,26,943/- against the petitioner is the alleged excess utilization of power for lighting purposes. It is not as if the liability can be fastened just on occurrence of a particular incident. The point of time at which the alleged excess utilization has taken place is to be indicated. Further, the back billing cannot be from the commencement of power supply. The question of limitation and interpretation of relevant terms and conditions of supply would also arise.

Through the impugned proceedings, the second respondent straight away required the petitioner to deposit the amount, with a threat of disconnection. Such a procedure cannot be countenanced. All possible violations were assumed and determined against the petitioner without hearing it. Therefore, such a course is violative of principles of natural justice.

On this short ground, the writ petition is allowed and the impugned proceedings are set aside. It is, however, left open to the respondents to issue show cause notice to the petitioner and take further steps in accordance with law. There shall be no order as to costs.

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22.08.2007

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